

APR 27 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TIMOTHY CHARLES PARLE,

Petitioner - Appellee,

v.

**DAVID L. RUNNELS, in his capacity as
Warden of the High Desert State Prison, in
Susanville,**

Respondent - Appellant.

No. 05-16610

D.C. No. CV-01-03487-WHA

MEMORANDUM*

**Appeal from the United States District Court
for the Northern District of California
William H. Alsup, Distict Judge, Presiding**

**Argued and Submitted April 4, 2006
San Francisco, California**

Before: NOONAN, SILER*, and BYBEE, Circuit Judges.**

**The district court's review de novo of the decision of the California Court of
Appeal was in error: that court, however imperfectly, conducted cumulative error**

*** This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.**

***** The Honorable Eugene E. Siler, Jr., Senior United States Circuit
Judge for the Sixth Circuit, sitting by designation.**

review of the trial. In the light of the district court's familiarity with the case, we remand for the district court to determine whether the decision of the state court was an objectively unreasonable application of *Chambers v. Mississippi*, 410 U.S. 284 (1973), *Taylor v. Kentucky*, 436 U.S. 478 (1978), or other relevant Supreme Court precedent.

VACATED and REMANDED.